

shown also that individual States and entire regions can be disadvantaged by periodic and partial release of obligation authority with ground rules shifting from period to period.

This bill seeks to redress this problem by giving specific program direction to the Secretary to insure that the will of this Congress cannot be subverted from the priorities we have established, and to assure that the programs and projects will be approved in accordance with existing law.

Mr. Speaker, the safeguards in this bill will provide that assurance, and will allow continuing progress on the Nation's highway system as we have determined.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill H.R. 7462.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 7462) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TRADING WITH THE ENEMY ACT REFORM LEGISLATION

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, as amended.

The Clerk read as follows:

H.R. 7738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO THE TRADING WITH THE ENEMY ACT

REMOVAL OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

SEC. 101. (a) Section 5(b)(1) of the Trading With the Enemy Act is amended by striking out "or during any other period of national emergency declared by the President" in the text preceding subparagraph (A).

(b) Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101 (a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination for each such

extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

(c) Paragraph (1) of section 502(a) of the National Emergencies Act is repealed.

WARTIME AUTHORITIES

SEC. 102. Section 5(b)(1) of the Trading With the Enemy Act is amended—

(1) in the text preceding subparagraph (A), by striking out "or otherwise," the first time it appears; and

(2) by striking out "and the President may, in the manner hereinabove provided, take other or further measures not inconsistent herewith for the enforcement of this subdivision".

CRIMINAL PENALTIES

SEC. 103. (a) Section 16 of the Trading With the Enemy Act is amended by striking out "\$10,000" and inserting in lieu thereof "\$50,000".

(b) Section 5(d)(3) of such Act is amended by striking out the second sentence.

TITLE II—INTERNATIONAL EMERGENCY ECONOMIC POWERS

SHORT TITLE

SEC. 201. This title may be cited as the "International Emergency Economic Powers Act".

SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

SEC. 202. (a) Any authority granted to the President by section 203 may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 203 may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this title and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

GRANT OF AUTHORITIES

SEC. 203. (a) (1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—
(i) any transactions in foreign exchange, (ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof, (iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest; by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any inter-

est in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued under this title.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value; or

(2) uncompensated transfers of anything of value except to the extent that the President determines that such transfers (A) would seriously impair his ability to deal with the unusual and extraordinary threat which is the basis for the exercise of authorities under this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

CONSULTATION AND REPORTS

SEC. 204. (a) The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this title and shall consult regularly with the Congress so long as such authorities are exercised.

(b) Whenever the President exercises any of the authorities granted by this title, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) with respect to an exercise of authorities under this title, the President shall report to the Congress with respect to the actions taken, since the last such report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b).

(d) The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act.

AUTHORITY TO ISSUE REGULATIONS

SEC. 205. The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this title.

CONGRESSIONAL REVIEW OF REGULATIONS

SEC. 206. (a) Any regulation issued under this title (including any modification of a previously issued regulation) shall be reported to the Congress not later than the date on which it becomes effective.

(b) (1) If, within the period described in paragraph (2), the Congress adopts a concurrent resolution disapproving, in whole or in part, a regulation reported pursuant to subsection (a), then such regulation shall immediately cease to be effective to the extent it is disapproved.

(2) The period referred to in paragraph (1) is the thirty-day period (excluding any day on which either House of Congress is not in session) beginning on the date on which the regulation is reported to the Congress pursuant to subsection (a).

(c) Disapproval of a regulation by the Congress under subsection (b) shall not affect the validity of such regulation (or any action taken under such regulation) during the period it was in effect.

PENALTIES

SEC. 207. (a) A civil penalty of not to exceed \$10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SAVINGS PROVISION

SEC. 208. (a) (1) Except as provided in subsection (b), notwithstanding the termination pursuant to the National Emergencies Act of a national emergency declared for purposes of this title, any authorities granted by this title, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) The authorities described in subsection (a) (1) may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c) (1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101 (a) and of paragraphs (A), (B), and (C) of

section 202(a) of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

TITLE III—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

AUTHORITY TO REGULATE EXTRATERRITORIAL EXPORTS

SEC. 301. (a) The first sentence of section 4(b) (1) of the Export Administration Act of 1969 is amended to read as follows: "To effectuate the policies set forth in section 3 of this Act, the President may prohibit or curtail the exportation, except under such rules and regulations as he shall prescribe, of any articles, materials, or supplies, including technical data or any other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States."

(b) (1) Section 4(b) (2) (B) of such Act is amended—

(A) in the first sentence, by striking out "from the United States, its territories and possessions,"; and

(B) in the second sentence—

(i) by striking out "from the United States"; and

(ii) by striking out "produced in the United States" and inserting in lieu thereof "which would be subject to such controls".

(2) Section 6(c) (2) (A) of such Act is amended by striking out "from the United States, its territories or possessions,".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHALEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BINGHAM) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. WHALEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, 9 months ago Congress passed the National Emergencies Act, which terminates existing emergency authorities as of 2 years from enactment and sets up procedures governing the conduct of future national emergencies. However, the National Emergencies Act exempted from its terms section 5(b) of the Trading With the Enemy Act, because difficult legal and policy questions remained to be resolved. These questions arise from the fact that section 5(b) provides the statutory basis for a number of ongoing foreign policy programs. Under the National Emergencies Act, the Committee on International Relations was directed to study these questions and report its recommendations to the House. H.R. 7738 is the committee's response to that man-

date. It is the product of long and careful study by the Subcommittee on International Economic Policy and Trade, which I chair, and by the full committee. I believe it is a sound bill, and I urge its passage.

The powers conferred upon the President by section 5(b) of the Trading With the Enemy Act are vast. In time of war or national emergency, the President is authorized to:

Regulate or prohibit any transaction in foreign exchange, any banking transfer, and the importing or exporting of money or securities;

Prohibit the withdrawal from the United States of any property in which any foreign country or national has any interest;

Vest—or take title to—any such property; and

Use such property in the interest and for the benefit of the United States.

In exercising these powers, the President is authorized to seize the records of any person, to redefine any of the terms used in section 5(b), and otherwise to act virtually at will. There are no policies and standards to guide the use of these powers, and no provision for reporting to Congress or for congressional review. Theoretically, once an emergency is declared by the President, it can go on forever.

There is not even a requirement that the situation with respect to which the emergency powers are being exercised have anything to do with the situation with respect to which the original emergency was declared. Let me illustrate. There are currently four declarations of national emergency in effect: One declared by President Roosevelt in 1933 to cope with the banking crisis; one declared by President Truman in 1950 in connection with the Korean conflict; one declared by President Nixon in 1970 to deal with the Post Office strike; and another declared by President Nixon to implement currency restrictions and to enforce controls on foreign trade.

By citing any of these existing states of emergency, the President may use the powers of section 5(b) to deal with any situation, at any time, for an unlimited period of time, regardless of the relationship between that situation and the situation existing at the time of the declaration of emergency. Under the authority of section 5(b), the United States has maintained trade embargoes on North Korea, Vietnam, Cambodia, and Cuba for periods of up to 27 years, and continues to block the U.S.-held assets of certain East European countries which were originally blocked during World War II. From September 1976, until last month, section 5(b) was even used to keep our entire system of export controls in effect during a lapse in the Export Administration Act. None of these uses of section 5(b) respond to any existing emergency; they are justified on the basis of emergencies long past. In short, these authorities are used because they are convenient—because they are there.

Mr. Speaker, the unlimited powers of section 5(b) may be necessary and appropriate when the Nation is in a situa-

tion of declared war. And few would deny that the President needs standby emergency authority to deal with unusual and extraordinary economic crises. But it is the height of folly to make emergency powers routinely available to the President with no standards to guide their use and no opportunity for congressional review. It is an abdication of our responsibility to make available to the President, for the day-to-day conduct of foreign policy, powers originally designed exclusively for use in time of war declared by Congress.

This bill would put an end to that situation. Let me say very briefly what the bill does. First, it leaves untouched the authorities of section 5(b) of the Trading With the Enemy Act. However, in title I, the bill provides that those authorities are available to the President only in time of war declared by Congress, and no longer in time of national emergency declared by the President. The 60-year-old prohibition on trading with the enemy is preserved, but vast powers originally intended for wartime use are reserved only for such use.

Second, the bill, in title I, specifically provides for the continuation in effect, at the discretion of the President, of trade embargoes and asset control programs currently applied by the United States under the authority of section 5(b). All existing uses of section 5(b) may continue subject only to an annual determination by the President that these uses are in the national interest.

Third, title II of the bill, the International Emergency Economic Powers Act, confers upon the President a new set of authorities for use in time of future national emergency. These authorities are both more limited in scope than those of section 5(b), and subject to various procedural limitations including those of the National Emergencies Act. The authorities basically parallel those of section 5(b), but do not include the power to vest property, to seize records, or to regulate purely domestic transactions or noneconomic transactions. Title II provides that the President may use the emergency economic powers only pursuant to an emergency declared specifically for that purpose, and must periodically report to and consult with Congress.

The exercise of the authorities of title II are subject to all of the provisions of the National Emergencies Act, including those for termination of a national emergency by concurrent resolution of the Congress. In addition, Congress may by concurrent resolution veto any regulation issued under title II. Finally, title II contains a "savings provision" whereby, despite termination of a national emergency, the President may continue to block the assets of a foreign country pending settlement of American claims against that country. This last provision should make it easier to terminate states of emergency in a timely fashion.

Fourth, title III of the bill allows the President to continue certain routine, nonemergency export controls which have been imposed under section 5(b), by providing the authority for those controls in the Export Administration Act.

This provision preserves the International Emergency Economic Powers Act as a strictly emergency measure.

In short, Mr. Speaker, this is a procedural bill. Its intent is to improve the policies and procedures which will govern future uses of emergency powers. It seeks to conform the conduct of future emergencies to the constitutional doctrine of checks and balances and to the requirements of the National Emergencies Act. The bill neither endorses nor disclaims any emergency measure currently being taken by the executive branch.

Mr. Speaker, this bill was reported out of the subcommittee and the full committee by voice vote, without dissent. It was drafted in full consultation with the administration, and in several respects uses language proposed by the administration. Indeed, I compliment the administration for its forthcoming attitude and constructive participation during markup, and I believe the administration would agree that the committee has gone a long way toward meeting objections to early drafts of the bill. Again, I urge favorable consideration by my colleagues.

I include at this point a detailed section-by-section summary of the bill:

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO THE TRADING WITH THE ENEMY ACT

Title I of the bill makes certain amendments to the Trading With the Enemy Act, but provides conditions under which current uses of section 5(b) of that act may continue notwithstanding those amendments.

Section 101—Removal of certain emergency powers under the Trading With the Enemy Act

Section 101(a) of the bill amends section 5(b) of the act to remove the provision making the authorities to control economic transactions available to the President in time of national emergency declared by him, but retains intact these broad authorities for use in time of war declared by Congress.

Section 101(b) of the bill provides that uses of the authorities of section 5(b) of the act with respect to specific countries, which are in effect on July 1, 1977 (such as for the embargoes of Cuba, Vietnam, and other countries, and the freeze on assets of Czechoslovakia, the People's Republic of China, and other countries), will terminate on September 14, 1978—the date specified by the National Emergencies Act for termination of all existing emergency authorities—unless extended by the President. The existing uses of the authorities of section 5(b) may be extended by the President for successive 1-year periods upon determination by the President that such extension is in the national interest. It is the intent of the committee that the President report each such determination and the reasons therefor to the Congress.

H.R. 7738 originally specified that this grandfather provision applied to uses of section 5(b) in effect on June 1, 1977. The committee amended that date to July 1, 1977. This change was made because the committee does not wish to grandfather the use of section 5(b) as authority for the continuation in force of the Export Administration Regulations. This use of section 5(b) was in effect on June 1, 1977, but will terminate as a result of the signing into law of the Export Administration Amendments of 1977 on June 22, 1977.

The committee rejected administration

recommendations that it make the Export Administration Act permanent legislation, because it feels that such important regulatory legislation should be periodically reviewed. The committee expects that future lapses of the Export Administration Act can and will be avoided, if necessary, by means of continuing resolutions. Should a lapse occur, however, the authority of title II of this bill could be used to continue the Export Administration Regulations in effect if, and to the extent that, the President declared a national emergency as a result of such lapse according to the procedures of the National Emergencies Act.

Section 101(c) of the bill repeals section 502(a)(1) of the National Emergencies Act, which exempts from the provisions of that act section 5(b) of the Trading With the Enemy Act and which is superseded by this bill.

Section 102—Wartime authorities

Section 102 of the bill amends section 5(b) of the Trading With the Enemy Act to remove two broad and unclear phrases. This is the only change made by the bill in the President's wartime authorities under section 5(b) of the act.

Section 103—Criminal penalties

Section 103 of the bill amends section 16 of the Trading With the Enemy Act to increase the maximum criminal fine for violation of the provisions of the act from \$10,000 to \$50,000 and makes a conforming amendment to section 5(b)(3) of the act by striking out a duplicative penalty provision. The fines have not been increased since original passage in 1917. This amendment brings the criminal fines of the Trading With the Enemy Act into conformity with those for violation of the national security and foreign policy provisions of the Export Administration Act.

TITLE II—INTERNATIONAL EMERGENCY ECONOMIC POWERS

Title II of the bill confers upon the President authority to exercise controls on international economic transactions during future national emergencies, and establishes policies and procedures to govern the use of those authorities.

Section 201—Short title

Section 201 provides that title II may be cited as the "International Emergency Economic Powers Act."

Section 202—Situations in which authorities may be exercised

Section 202 defines national emergency as an "unusual and extraordinary threat which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States." This section provides that the authorities granted to the President by this title may be used to deal with such a threat if the President declares a national emergency with respect to the threat, that they may only be used to deal with that threat and not for any other purpose, and that the exercise of the authorities to deal with any new threat would require a new declaration of national emergency.

By its own terms, and with repeal by section 101(c) of this bill of the temporary exemption for section 5(b), the provisions of the National Emergencies Act are applicable to any exercise of authorities pursuant to any declaration of national emergency. Pertinent provisions of the National Emergencies Act provide that: (1) the President may declare a national emergency with respect to acts of Congress authorizing special or extraordinary power during time of national emergency, and that such declaration must be immediately transmitted to Congress and published in the Federal Register; (2) emergency authorities conferred by such acts of

Congress are effective only when the President specifically declares a national emergency, and only if exercised in accordance with the National Emergencies Act; (3) national emergencies may be terminated by Presidential proclamation or by concurrent resolution of the Congress; (4) every 6 months that a national emergency remains in effect, each House must vote on a concurrent resolution on whether to terminate the emergency; (5) any national emergency declared by the President and not otherwise previously terminated will terminate on its anniversary date if, within 90 days prior to each anniversary date, the President does not publish in the Federal Register and transmit to Congress a notice that the emergency will continue in effect; (6) the President may not exercise any emergency power conferred by statute without specifying the statutory basis for his action; (7) the President must keep and promptly transmit to Congress adequate records of all Executive orders and proclamations, rules and regulations, issued pursuant to a declaration of war or national emergency; and (8) during time of war or national emergency the President must transmit to Congress every 6 months a report on expenditures directly attributable to the exercise of emergency authorities. Whenever a President declares a national emergency under section 202 of the bill, all of the above provisions automatically apply to the exercise of the authorities of section 203 of the bill under that declaration of national emergency.

Section 203—Grant of authorities

Section 203(a) of the bill defines the international emergency economic authorities available to the President in the circumstances specified in section 202. This grant of authorities basically parallels section 5(b) of the Trading With the Enemy Act. Paragraph (1)(A) authorizes the President to regulate transactions in foreign exchange, banking transactions involving any interest of any foreign country or a national thereof, and the importing or exporting of currency or securities, and to regulate or freeze any property in which any foreign country or a national thereof has any interest. Paragraph (1)(B) authorizes the President to require any person to keep and furnish records necessary to enforce these provisions. Section 203(a) also holds harmless from suit any person carrying out or administering these authorities in good faith.

This grant of authorities does not include the following authorities which, under section 5(b) of the Trading With the Enemy Act, as amended by title I of this bill, are available to the President in time of declared war: (1) the power to vest, i.e., to take title to foreign property; (2) the power to regulate purely domestic transaction; (3) the power to regulate gold or bullion; and (4) the power to seize records.

Section 203(b) of the bill states that the authority granted to the President by this section does not include the authority to regulate or prohibit, and should not be used with the effect of regulating or prohibiting, personal communications which do not involve the transfer of anything of value, or uncompensated transfers of anything of value except if the President determines that such transfers would seriously impair his ability to deal with the emergency, are in response to coercion against the recipient or donor, or would endanger U.S. Armed Forces. It is the intent of the committee by this provision to reserve title II of the bill as an authority for the regulation

of international commercial and financial transactions as necessary to protect the national security, foreign policy, or economy of the United States. The authority of title II does not extend to the interruption or hindrance, direct or indirect, of private communications, which are not commercial or financial transactions, between the citizens of the United States and those of any other country, regardless of the other country's relationship to the United States. Neither does the authority of title II extend to the interruption or hindrance, direct or indirect, of free, uncompensated transfer of anything of value, such as humanitarian contributions, by U.S. citizens to any other country, regardless of that country's relationship to the United States. In the case of uncompensated transfers of anything of value, there is provision for the President to regulate or prohibit such transfers in certain exceptional circumstances. It is the intent of the committee that these exceptions be narrowly construed, and that any doubt be resolved in favor of permitting such transfer to occur.

The Committee deleted from the bill a provision that the authority of this section does not include the authority to regulate or prohibit the collection and dissemination of news by the news media. The committee does not intend by this deletion to authorize regulation or prohibition of the collection and dissemination of news. The news media have long maintained that the First Amendment to the Constitution provides adequate and complete protection of freedom of the press, and the committee, therefore, considered further statutory protection of that freedom unnecessary, redundant, and inappropriate.

The provision of section 203(b) are designed both to preserve First Amendment freedoms of expression, and to preclude policies that would totally isolate the people of the United States from the people of any other country.

Section 204—Consultation and reports

Section 204 of the bill (a) requires that the President consult with Congress whenever possible before exercising any of the authorities of this title, and continue to consult regularly with Congress so long as such authorities are being exercised; (b) requires that the President transmit to Congress, immediately upon beginning to exercise any of the authorities of this title, a report: (1) defining the circumstances which necessitate the exercise of authority; (2) stating why those circumstances constitute a national emergency within the meaning of section 202(a) of the bill; (3) specifying the authorities to be exercised and the actions to be taken; (4) justifying the necessity for such actions; and (5) designating the foreign countries toward which such actions are directed; (c) requires that the President update the report every 6 months; and (d) states that these requirements are supplemental to the reporting requirements of the National Emergencies Act. Nothing in this section should be construed as requiring submission of a report as a precondition of taking action where circumstances require prompt action prior to or simultaneously with submission of a report.

Section 205—Authority to issue regulations

Section 205 authorizes the President to issue regulations and prescribe definitions necessary for exercising the authorities conferred upon him by this title.

Section 206—Congressional review of regulations

Section 206 provides that all regulations issued under this title must be reported to Congress, and the Congress may by concurrent resolution veto any regulation in whole or in part within 30 legislative days of its report to Congress, the regulation becoming ineffective at the time of the veto. This pro-

vision is considered necessary in view of past instances in which Presidents have used the authority to issue regulations as a means of expanding the scope of section 5(b), as in President Roosevelt's inclusion of vendors of consumer durable goods within the meaning of "banking institution" in order to impose consumer credit controls. The committee recognizes that the President must have latitude and flexibility to deal by regulation with future emergency situations, and it does not favor congressional veto of routine administrative regulations as a general practice. But the regulations promulgated under the International Emergency Economic Power Act will be both infrequent and extremely important, which makes it both feasible and necessary for Congress to reserve for itself the right to veto regulations and definitions which go beyond the purposes and authorities of the act.

Section 207—Penalties

Section 207 provides a civil penalty of not more than \$10,000, and a criminal penalty of not more than \$50,000 and 10 years imprisonment, for violations of the provisions of this title. These penalties are comparable to those contained in the Export Administration Act, which provides related export regulation authorities, and to the criminal penalties of the Trading With the Enemy Act as amended by this bill.

Section 208—Savings provision

Section 208 of the bill provides that, notwithstanding the termination of a national emergency under the National Emergencies Act, the President may continue to block any assets of a foreign country that were blocked on the date of the termination of the national emergency, if he determines that the continued blocking of those assets is necessary because of U.S. claims against the country involved, unless Congress specifies in a concurrent resolution terminating a national emergency that the assets may not continue to be blocked. Under subsection (a)(2) of section 208, notwithstanding the termination of a currently existing U.S. trade embargo of another country under section 101(b) of the bill, assets of that country which are blocked on the date of the termination of the trade embargo may continue to be blocked for the same reason. The President is required to report to Congress every 6 months on the reasons for continuing to block the assets of a foreign country under this section.

Holding the assets of a foreign country is generally the most effective means of achieving settlement of U.S. claims. The need to continue to block assets has prompted Presidents to continue a legal state of emergency in effect long after the factual state of emergency has passed. It is the intent of the committee by this section to enable the timely termination of states of emergency, and a return to government under normal law, without prejudicing the ability of U.S. citizens to recover claims against foreign countries.

TITLE III—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

Section 301—Authority to regulate extraterritorial exports

Title III of the bill (section 301) amends the Export Administration Act of 1969 to provide authority for control over exports of non-U.S.-origin goods and technology by foreign subsidiaries of U.S. concerns. This is in addition to the authority currently provided in the Export Administration Act for control over the export of U.S.-origin goods and technology, whether from the United States or abroad. Section 5(b) has heretofore been cited as authority for regulation of the export of non-U.S.-origin goods. However, this is neither a wartime nor an emergency authority, and it belongs in the nonemergency

²² Examples of purely domestic transactions which in the past have been regulated under section 5(b) include hoarding of gold by U.S. citizens and the extension of consumer credit by U.S. businesses.

statutory context of the Export Administration Act.

Mr. WHALEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. WHALEN asked and was given permission to revise and extend his remarks.)

Mr. WHALEN. Mr. Speaker, I rise in support of H.R. 7738, a bill which deals with the powers of the President in time of war or national emergency. Let me briefly outline the reasons why I urge its adoption under suspension of the rules.

First, this is essentially a bill establishing procedures, and not a bill that sets out or judges specific policies. It reorganizes relevant pieces of legislation, creating a new act in the process, and provides a more consistent and appropriate framework for Presidential authorities.

Second, the committee in its deliberations has attempted to respond to the administration's concerns in this area. The committee particularly sought to minimize executive branch policy problems during the transition period to a new legislative framework and even after that point. Specifically, we have stipulated Presidential discretion to continue any controls currently in effect.

Third, the committee has tried to create a necessary analog to the war powers legislation passed by this committee and the Congress in 1973. Congress is as much at fault as any administration if it allows a President to carry out policies, wise or unwise, under blanket authority granted by defective legislative statute. This bill will, I hope and expect, in conjunction with the War Powers Act, call the President to task before the Congress and produce the policy justifications Congress has the right to expect. This will restore an organic relationship between the two branches.

Mr. Speaker, I urge my colleagues to support this legislation which has, in my opinion, been drafted free of any controversial policy overtones.

Mr. BINGHAM. Mr. Speaker, I have no requests for time at this point.

Mr. WHALEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

(Mr. DERWINSKI asked and was given permission to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I rise in support of this bill—H.R. 7738—to define the powers of the President to regulate international economic transactions in time of war or national emergency.

I have carefully examined this legislation and had it reviewed by various independent sources. In fact, I asked for a delay in the full committee's consideration of the bill so that my review could be as complete as possible.

I am glad to report that there are no basic problems with the bill before us and I intend to vote for it.

Mr. LEGGETT. Mr. Speaker, I feel that H.R. 7738 is a significant milestone in the establishment of reasonable limits on the powers of the Presidency. In passing this legislation, we will give Congress a voice in Presidential actions in a na-

tional emergency without tying the President's hands in times of crisis.

The situation which now exists is intolerable. The President's economic regulatory powers under a national emergency are equivalent to those he possesses in time of war.

A national emergency and a war, as you all know, are not the same in origin. Unlike a declaration of war, Congress has no voice in the initial declaration of a national emergency. Thus the President has the power to act unilaterally in a virtually unrestricted fashion in an emergency which he alone has declared.

Presidents have committed many controversial acts under national emergencies. Whether or not these particular actions have been proper, the potential for abuse is enormous.

This bill deals with the problem first by removing future national emergencies from the authority of the Trading With the Enemy Act. Section 5(b) of this act now gives the President his equivalent wartime and national emergency powers.

The bill creates the International Emergency Economic Powers Act to govern the President's emergency actions. It leaves him with ample powers to deal with the emergency by regulating certain economic transactions.

However, the act will not give the President certain economic powers he possesses during wartime. Notable among them is the power to regulate purely domestic transactions. It seems to me that this is an area particularly open to abuse. We will take an important step toward our goal of reasonable executive power by restricting this option.

The most significant provisions in this bill, I feel, are those giving the Congress a share of the responsibilities in this area. In the past, the President has had a free rein to act without consulting the Congress. Additionally, Congress has had no way to challenge or prevent Presidential emergency actions.

In future national emergencies, the President will not be restricted in his initial acts except for the overall restraints imposed by the bill. But Congress will have the ability to nullify any emergency regulations by concurrent resolution within 30 days.

Furthermore, the President is instructed to consult with the Congress before he takes any action if at all possible. These discussions will not only give the President a preview of public reaction and the benefit of congressional ideas. They will also give him a chance to act in a way that Congress will not object to and lend added authority and legitimacy to his actions.

And finally, by calling for semiannual reports to the Congress about ongoing emergency actions, this legislation will give Congress standards by which to evaluate the necessity of continuing the emergency under the National Emergencies Act.

We have all been witness to the flow of power over the past several decades from the legislative to the executive branch. Only in recent years, upon revelations of Presidential abuses of that power, have we moved to counteract the trend.

In passing this bill, we will complete something we began last year with the adoption of the National Emergency Act. We will have an established set of procedures for dealing with national crises in as rational and democratic a way as possible without hindering necessary immediate responses to them.

I commend the Committee on International Relations for its work on this legislation. It will bring us back another measure toward Government as the Founders intended.

Mr. WHALEN. Mr. Speaker, I have no further requests for time.

Mr. BINGHAM. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the bill (H.R. 7738), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 2, Surface Mining Control and Reclamation Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FRANKED MAIL ACT OF 1977

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7792) to amend title 39, United States Code, to establish certain limitations on the use of the frank, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Franked Mail Act of 1977".

MAILINGS BY CANDIDATES FOR CERTAIN PUBLIC OFFICES

Sec. 2. (a) Section 3210(a)(5) of title 39, United States Code, is amended—

(1) in subparagraph (B)(iii) thereof, by inserting "or" after the semicolon at the end thereof;

(2) in subparagraph (C) thereof, by striking out the semicolon and "or" at the end thereof and inserting in lieu thereof a period; and

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate proceed to the consideration of three measures that have been cleared for consideration by unanimous consent, and that the Senate proceed to the consideration of Calendar Order Nos. 431, 444, and 445.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, all three of these items have been cleared on our calendar, and we have no objection to proceeding with them.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL EMERGENCY ECONOMIC POWERS LEGISLATION

The Senate proceeded to consider the bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 2, beginning with line 17, insert the following:

(c) The termination and extension provisions of subsection (b) of this section supercede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

On page 2, line 22, strike "(c)" and insert "(d)";

On page 6, line 6, strike:

uncompensated transfers of anything of value except to the extent that the President determines that such transfers (A) would seriously impair his ability to deal with the unusual and extraordinary threat which is the basis for the exercise of authorities under this title, and insert in lieu thereof: donations, by persons subject to the jurisdiction of the United States, of articles, including food, clothing, and medicine, intended to be used solely to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his authority to deal with any national emergency declared under section 202 of this title,

On page 8, beginning with line 20, strike through and including page 9, line 13;

On page 9, line 15, strike "207" and insert "208";

On page 10, line 2, strike "208" and insert "207";

On page 11, beginning with line 18, insert the following:

Sec. 208. If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 95-466), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to revise and delimit the President's authority to regulate international economic transactions during wars or national emergencies. The bill is a response to two developments: first, extensive use by Presidents of emergency authority under section 5(b) of the Trading With the Enemy Act of 1917 to regulate both domestic and international economic transactions unrelated to a declared state of emergency, and second, passage of the National Emergencies Act of 1977 which provides safeguards for the role of Congress in declaring and terminating national emergencies, but exempts section 5(b) of the Trading With the Enemy Act from its coverage.

Four national emergency declarations were in effect prior to passage of the National Emergencies Act of 1976: President Roosevelt's declaration in 1933 to cope with the banking crisis; President Truman's declaration in 1950 during the Korean War; President Nixon's declaration in 1970 to deal with the Post Office strike and his declaration of a balance of payments crisis in 1971. Any emergency declaration may be used by the President in conjunction with section 5(b) of the Trading With the Enemy Act to regulate domestic or international economic transactions or control property for an indefinite period. Such emergency authority was used by President Johnson to place controls on U.S. direct investment abroad in 1968 (controls which continued until 1974), by President Nixon to impose a 10-percent surcharge on U.S. imports from August to December 1971; and most recently by President Ford to extend controls and regulations issued under the Export Administration Act when that act lapsed temporarily between September 30, 1976 and June 22, 1977. President Johnson's action was based on the continuing emergency declared during the Korean War. Presidents Nixon and Ford based their actions on the Korean emergency and the 1971 balance of payments emergency.

The National Emergencies Act of 1976 terminated emergency authority existing under declarations of national emergency in effect on September 14, 1976, the date the act became law, and specified the manner in which future national emergencies are to be declared and terminated, and emergency authorities to be exercised. Section 5(b) of the Trading With the Enemy Act was excluded from coverage by the National Emergencies Act. The act instructed Congress to study section 5(b) and propose such revisions as might be found necessary.

Exclusion of section 5(b) reflected concern for preserving existing regulations imposed under emergency authority, including the following:

(1) the foreign assets control regulations, which block the assets of, and limit transactions with, the People's Republic of China, North Korea, Vietnam, and Cambodia;

(2) the Cuban asset control regulations, which block the assets of, and limit transactions with, Cuba;

(3) the transaction control regulations, which prohibit U.S. persons from participating in shipping strategic goods to any of the following countries: Albania, Bulgaria, People's Republic of China, Cambodia, Czechoslovakia, German Democratic Republic and East Berlin, Hungary, North Korea, Outer Mongolia, Poland and Danzig, Romania, the Soviet Union, North Vietnam and South Vietnam; and

(4) the foreign funds controls regulations, which continue World War II blockage of the assets of Czechoslovakia, Estonia, the Ger-

man Democratic Republic, Latvia, Lithuania, and their nationals.

EX-PRISONERS OF WAR, INC.

The bill (S. 1590) to incorporate the American Ex-Prisoners of War, Incorporated, was announced as next in order.

Mr. DOMENICI. Mr. President, S. 1590 is more than tribute to this Nation's brave heroes who have endured the agony of internment by the enemies of this Nation; for the National Organization of American Ex-Prisoners of War, Inc. exists for the purpose of honoring their country and serving their comrades and their loved ones who are disabled or disadvantaged as a result of service to our country.

In order to be effective in this mission, the American ex-prisoners of war need accreditation by the Veteran's Administration—a status which requires a Federal charter. This bill will provide them with such a charter.

I wish to take a moment to express my gratitude to the distinguished chairman of the Judiciary Committee, Mr. EASTLAND, for his prompt and expeditious attention to this worthy cause. Also, my colleagues and cosponsors, Senators THURMOND, GOLDWATER, and CHILES, should be commended for their zeal in aiding the cause of these patriots and their unique problems.

To the 5,000 ex-prisoners of war, may this be a reaffirmation of this country's gratitude for the suffering and indignity you endured.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1590) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons: Mel Madako, Albuquerque, New Mexico; Henry Goodall, Houston, Texas; Memory Cain, Santa Barbara, California; Delmar Spivey, Largo, Florida; Robinson Risner, Oklahoma City, Oklahoma; George E. Day, Eglin Air Force Base, Florida; Charles Morgan, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Edgar Van Valkenburg, Saint Petersburg, Florida; Palline Brown, Tampa, Florida; Joseph R. Perry, Anaheim, California; Thornton E. Hambray, Arlington, Texas; Harry E. Steen, El Paso, Texas; Carl Allen, Macon, Georgia; James Atwell, Winter Park, Florida; Jack Aldrich, Albuquerque, New Mexico; Ernest Armijo, Los Lunas, New Mexico; William Mattson, Cheshire, Oregon; Donald T. Morgan, Tacoma, Washington; Eugene J. Shannahan, Williamsburg, Iowa; Stanley G. Sommers, Marshfield, Wisconsin; Anna Bressi, Mechanicsburg, Pennsylvania; Felix Stankus, Ipswich, Massachusetts; Jack D. Warner, Hammon, Oklahoma; Harold L. Page, Buckley, Washington; John Romine, Muskogee, Oklahoma; Albert W. Braun, Phoenix, Arizona, and their successors, are created and declared to be a body corporate by the name of the "American Ex-Prisoners of War, Incorporated" (hereafter in this Act referred to as the "corporation"), and by such name shall be known and have perpetual succession, and the powers, limitations, and restrictions contained in this Act.

the issue, and, as I say, that matter will apparently go all the way to the Supreme Court. But then the legislative process will follow that, as the chairman of the committee said, when we look at the rest of the legislation.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Speaker, what concerns me is the fact that we have stated here that the States must develop an acceptable program.

A program acceptable to whom? The Federal Government, the Federal bureaucracy, which has stopped many of us in the States flat in our tracks from developing opportunities for our people?

Mr. FORSYTHE. Mr. Speaker, for the State to get a cooperative program, it would deal with the Department of the Interior and the Department of Commerce, yes, where the species would be, for example, a marine mammal. There is a split jurisdiction by species, and obviously the Federal agency has to go by the Federal law in terms of this: Does that State cooperative agreement comply with the Federal statute?

But this piece of legislation even helps make that more possible, because one of the problems in the existing law, without this legislation, was that a State had to have a program to cover all species, whether they were resident or involved or not. This permits them to protect those species under an agreement with the Federal Government that are involved in that single State.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the chairman of the committee.

Mr. MURPHY of New York. Mr. Speaker, I want to assure my colleague, the gentleman from Oklahoma (Mr. WATKINS), that the purpose of this legislation is to bring the 33 States into this program, and get them to take over the protection of resident endangered species.

We have broadened the program, and we have added more money so that the States will be able to protect endangered species and have the funds to do it. Thus they will not have to rely on what is minimal funding in many States.

That is the very thrust of this legislation, and it is not meant to impede any project. There is no project that would be impeded by this legislation.

As I assured the gentleman from Mississippi (Mr. WHITNEY)—and I refer to section 7—what we are doing is simply broadening the power of the States to, No. 1, get funding, and, No. 2, to be responsible for the endangered species within the States.

Mr. WATKINS. Mr. Speaker, will the gentleman yield further?

Mr. FORSYTHE. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Speaker, the concern I have is that in the State of Oklahoma a water project was halted. Under the guise of the Endangered Species Act we were protecting two species, one called the snail darter and the other one called the leopard darter, a muta-

tion. They stopped the project. They did this, we understood, to save the environment from the results of the project.

The choice was exercised by the Federal bureaucracy, and they did not allow this project to be completed. This was done by the choice of those individuals in the Federal Government and not by the choice of the people in that area of the country, that area of the State of Oklahoma, and it was impossible to continue that project.

Mr. FORSYTHE. Mr. Speaker, as the committee chairman has said, these issues are not dealt with in the legislation we are addressing today. Those are issues that will be dealt with when we look at the rest of the Endangered Species Act. That is the time we will be anxious to hear from the gentleman further.

Mr. LEGGETT. Mr. Speaker, I urge the adoption of the conference report S. 1316. The conferees have agreed to all of the provisions of the legislation as passed by the House. They have merely added some modifying language which plugs a potential loophole in the law.

Under the existing law, when a State signs a cooperative agreement with the Federal Government covering resident wildlife, the prohibitions in the Endangered Species Act are waived. This makes a good deal of sense since the continuation of Federal prohibitions would only duplicate the protection afforded under the cooperative agreement.

S. 1316, however, changes the existing law slightly by no longer requiring blanket protection for each and every species listed by the Federal Government. Thus, in some instances, there may be a need for continued Federal protection for those species not covered by the cooperative agreement. The modification adopted by the conferees guarantees that those species not covered by the cooperative agreement will continue to receive protection under the Endangered Species Act.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves that the House recede from its amendment to the title of the Senate bill, S. 1316.

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. DICKS). Is there objection to the request of the gentleman from New York?

There was no objection.

TRADING WITH THE ENEMY ACT AMENDMENTS

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7738) with respect to the powers of the President in time of war or national emergency, with Senate amendments thereto, concur in Senate amendments numbered 2, 4, 5, 6, and 7, and concur in Senate amendments numbered 1 and 3 with amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments.

The Clerk read the Senate amendments, as follows:

Page 2, after line 15, insert:

(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

Page 2, line 16, strike out "(c)" and insert "(d)".

Page 6, line 9, strike out all after "(2)" down to and including "title," in line 13 and insert "donations, by persons subject to the jurisdiction of the United States, of articles, including food, clothing, and medicine, intended to be used solely to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his authority to deal with any national emergency declared under section 202 of this title."

Page 8, strike out all after line 11 over to and including line 6 on page 9.

Page 9, line 8, strike out "207." and insert "206."

Page 9, line 19, strike out "208." and insert "207."

Page 11, after line 10, insert:

SEC. 208. If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

The SPEAKER pro tempore. The Clerk will report the House amendments to Senate amendments numbered 1 and 3.

The Clerk read the House amendments to Senate amendments numbered 1 and 3, as follows:

In Senate amendment No. 1, strike out "supersede" and insert in lieu thereof "supersede;" and in Senate amendment No. 3, strike out "including" and insert in lieu thereof "such as," strike out "solely," and strike out "authority" and insert in lieu thereof "ability."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, I do that for the purpose of asking my colleague, the gentleman from New York (Mr. BINGHAM), just what is going on here. There does not seem to be anybody at the desk on this side with respect of this matter.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield, I will be glad to explain what we are attempting to do.

I expect that the gentleman from Illinois (Mr. FINDLEY), the present ranking member of my subcommittee, will be here momentarily.

I would remind the gentleman that the bill we are dealing with here passed

the House on a voice vote a few months ago. It then passed the other body with a few amendments, most of which are technical in character, such things as a separability provision and some purely technical amendments changing section numbers and so on.

There are two proposed changes of substance in the Senate bill, which are substantially noncontroversial, we feel. We have had some discussions with the other body on the subject, and we recommend accepting one of those changes. The other we recommend accepting with some limitations, and I can explain what those are.

The bill we are dealing with, the gentleman will recall, provides procedures and policies for the Presidential use of economic sanctions following a declaration of a national emergency at times other than declared war. This conforms to the provisions of the National Emergencies Act.

Under the House bill, the issuance of particular regulations to carry out economic restrictions was made subject to congressional veto by congressional resolution. The Senate representatives took a very strong position that this was unnecessary since the Congress already has the authority under the National Emergencies Act to overrule or veto the President's declaration of an emergency, and the other body felt that that is sufficient. Therefore, our committee representatives concluded that we should concur in that amendment since the Senate seemed to feel very strongly about it.

The other amendment had to do with exceptions to the economic controls the President would have under such a declaration of emergency, so that articles of a humanitarian character would be excluded from any embargoes of exports. The House language on that, the Senate felt, was too broad. Consequently, the Senate amendment somewhat tightened up that exclusion. It proposes only to exclude items intended solely for humanitarian purposes and specifies that food, clothing, and medicine are the types of items that should be excluded from Presidential regulation.

The House amendment to the Senate amendment would eliminate the word "solely" since, in almost every case, items of that character would have some benefit other than a purely humanitarian one. The test would be an impossible one to meet if it were limited by the word "solely." Most donations would have some economic value and impact, in addition to relieving human suffering, and such economic value or impact should not preclude a donation from coming within the Senate's proposed "humanitarian exemption." The motion I am offering to concur in the Senate provision would delete the word "solely" from the Senate language.

The Senate provision also seemed to limit the donations contemplated to fall within the exemption to "food, clothing, and medicine." It was the intent of both the House and Senate bills that any article other than military or strategic items could be donated.

To make clearer that the Senate's mention of "food, clothing, and medi-

cine" is meant only to be illustrative of donations covered by the exemption, and that such mention should not be regarded as excluding other donated things of value from the exemption, it was suggested that the term "including" that appears before "food, clothing, and medicine" be changed to "such as." Such a change is included in the motion I am making to concur in the Senate amendments.

Finally, my motion to concur includes two further amendments to make purely technical corrections in the bill—to correct a misspelling and to correct a reference to the "authority" of the President which should read the "ability" of the President.

It is my recommendation, Mr. Speaker, that the House concur in the remainder of the Senate amendments. According to Senator SREVENSON, manager of the Senate bill, the Senate felt strongly that the congressional veto provided in the National Emergencies Act over future declarations of national emergency, which would trigger the international economic regulatory authority spelled out in this bill, constitutes a sufficient congressional check on the use of these authorities and makes unnecessary the additional congressional veto of regulations contained in the House bill. It was the concern of the House committee in considering this legislation that the congressional veto over national emergencies might provide too blunt and imprecise a congressional check—that a future Congress might concur with the need for a declaration of national emergency, but disagree with the use of a particular authority available to the President in light of a declared national emergency. Nevertheless, the motion I will offer to concur in the Senate amendments accepts the Senate position that congressional veto over "national emergencies" themselves is sufficient.

We feel that neither of these are of major consequence to the bill. That is why we brought the matter before the House in this fashion. We did not feel a conference was necessary and we were hoping to dispose of this legislation before the end of this session.

The minority has been consulted on this. I alerted the gentleman's colleague, the gentleman from Maryland (Mr. BAUMAN): I do not see the gentleman on the floor at the moment.

I also have the assurances that the minority on the committee are in accord with this proposal.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I thank my colleague for that explanation and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. DICKS). Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I would ask the gentleman from New York (Mr. BINGHAM) whether there is any provision in this proposal that will open the door to trading with either Vietnam or Cuba?

Mr. BINGHAM. If the gentleman would yield, I would say to the gentleman

from New York (Mr. GILMAN) that this legislation specifically grandfathers the embargoes against Vietnam, Cambodia, Laos, Cuba, and other existing embargoes, so that they are not affected in any way by this legislation.

Mr. GILMAN. And this proposal creates no new vehicle for doing trade with any of those nations?

Mr. BINGHAM. No; it certainly does not.

Mr. GILMAN. I thank the gentleman for yielding and withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

Mr. WOLFF. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from New York (Mr. BINGHAM) a question. The answer, as I understand it, to the question propounded by the gentleman from New York (Mr. GILMAN) as to any further limitations to be placed on the part of the Congress at any later date are not removed; is that correct?

Mr. BINGHAM. No; as I explained to the gentleman from Ohio (Mr. ASHBROOK) Congress, under the National Emergency Act, which dovetails with this act, would have the right by concurrent resolution to overrule a veto of a declaration of emergency by the President, so that right of a veto over such declarations of a national emergency would not be disturbed in this legislation.

Mr. WOLFF. But what if we got involved in some other type of conflict that was not declared a national emergency, and the Congress desired at that point to put certain restrictions on trading with that particular country or countries involved, would we still, under the provisions of this act, have the opportunity of putting those restrictions in?

Mr. BINGHAM. Why, certainly, there would be nothing to prevent the Congress from taking any action that it saw fit to take. That situation that the gentleman describes would simply not be covered by this act.

Mr. WOLFF. This would not put any restrictions on any further actions by the Congress?

Mr. BINGHAM. Certainly not.

Mr. WOLFF. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

LIVING UP TO OUR COMMITMENT TO THE PHILIPPINE SCOUTS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to correct a

change the substance of the original language as proposed by Senator Brooke.

I am more than anxious to hear from you as to your intentions on future votes on this subject. As you unquestionably know, the movement to reverse the United States Supreme Court decision of January 1973 is gaining strength almost daily and as more and more people become aware of the facts relative to abortion the conviction grows that of necessity this country must change its position by reversing the Supreme Court's monstrous decision.

Please let me know of your intentions and, hopefully, of your continued support for life and your opposition to abortion.

Sincerely,

KANSAS CATHOLIC CONFERENCE,

VINCENT DeCOURSEY,

Executive Director.

Mr. DOLE. Mr. DeCoursey, a highly-respected and effective advocate for individuals who wish to protect life, raises some valid points in his letter; and I want to assure him and others who have expressed concern about a possible shift in my position that I will continue—as I have done in the past—to safeguard the right to life and to curb the attitude that living beings may be discarded with as little thought as that given to tossing old clothes.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 12:14, recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SASSER).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 2:05 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:59 p.m., when called to order by the presiding officer (Mr. ROBERT C. BYRD).

RECESS UNTIL 4 P.M. TODAY

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 4 p.m. today.

At 2:59 the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

RECESS UNTIL 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 5 p.m. today.

There being no objection, the Senate, at 4 p.m., recessed until 5 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STONE).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL EMERGENCY WAR POWERS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7738.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 2, 4, 5, 6, and 7 to the bill (H.R. 7738) entitled "An Act with respect to the powers of the President in time of war or national emergency."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the aforesaid bill with the following amendment:

Page 1, line 3, of the Senate engrossed amendments, strike out "supercede" and insert: *supersede*

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with the following amendments:

1 Page 1, line 11, of the Senate engrossed amendments, strike out "including" and insert: *such as*

2 Page 1, line 12, of the Senate engrossed amendments, strike out "solely"

3 Page 2, line 2, of the Senate engrossed amendments, strike out "authority" and insert: *ability*

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate to H.R. 7738.

The motion was agreed to.

MARK CHARLES MIEIR AND LIANE MARIA MIEIR

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3313.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3313) entitled "An Act for the relief of Mark Charles Mieir and Liane Maria Mieir", with the following amendment:

Line 6, of the Senate engrossed amendment, strike out "United States." and insert: *United States: Provided*, That the natural parents or brothers or sisters of the

beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate to H.R. 3313.

The motion was agreed to.

FURTHER CONTINUING APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 662.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the resolution (H.J. Res. 662) entitled "Joint resolution making further continuing appropriations for the fiscal year 1978, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid resolution with the following:

AMENDMENT

In lieu of the matter proposed by said amendment, insert:

Provided, That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The Secretary shall promptly issue regulations and establish procedures to insure that the provisions of this section are rigorously enforced.

Mr. MAGNUSON. Mr. President, before I move, reluctantly, to concur in the House amendment, I want to say that the Senator from Massachusetts and I, and many of us in the committee, have struggled a long time with this problem. We have deep respect for the views of people on the other side. As a matter of fact, Mr. President, there was no black or white on this thing. There were a lot of grays. It is just a question of how far you should go.

I think that we in the Senate, as the bottom line on this very emotional matter, looked at things with one thing in mind: What is the most humane thing to do? What will be in the best interest of a lot of people that have personal, serious problems, legitimate problems, and what can we do to help solve a situation that has been in and out of the courts, in settling the argument over whether the States should handle it or the National Government?

We have done the best we know how. There has not been any particular compromise as such. It is pretty hard to compromise emotional matters. It is pretty